

## **REMARKS**

Reconsideration and further examination of the subject patent application in light of the present Amendment and Remarks is respectfully requested.

Claims 1-54 are currently pending in the application. Claims 1-11, 15-25, 28-36, 39-50 and 54 stand rejected. Claims 12-14, 26, 27, 37, 38 and 51-53 have been indicated as allowable, but objected to as being dependent upon a rejected base claim.

### **Rejection Under 35 U.S.C. §102**

Claims 1-5, 10, 11, 15-20, 24, 25, 28, 30, 31, 35, 36, 39-44, 49, 50 and 54 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Pat. No. 6,249,089 to Bruwer ("the Bruwer '089 patent"). Applicant respectfully traverses this rejection.

Independent claim 1 has been further limited to "operating a light source in accordance with each identified mode of the plurality of operating modes including activating, deactivating and activating the flashlight through use of the momentary contact without changing the identified mode". Claims 16 and 40 contain similar additional limitations. Claim 29 has been further limited to "a toggling routine adapted to activate and deactivate the flashlight without changing the previously selected operating mode". Support for the activating, deactivating and activating sequence of the toggling routine itself may be found in numerous locations within the specification (e.g., paragraphs [0101-0106], FIGs. 29-31, etc.).

The Examiner asserts that "Bruwer discloses . . . deactivating the flashlight without [changing] the identified mode (col. 7, lines 25-30)" (Office Action of 1/10/06, page 3). However, col. 7, lines 7-24 of Bruwer merely refer to the normal on/off functions of a flashlight or to the time

shutdown of the Bruwer flashlight. Nowhere within Bruwer is there any reference to a toggling function or to a toggling routine used with a number of programming modes.

Since Bruwer fails to provide any teaching regarding this claim element, Bruwer does not do the same or any similar thing as that of the claimed invention. Since Bruwer does not do the same or any similar thing as that of the claimed invention, the rejections are improper and should be withdrawn.

#### Rejection Under 35 U.S.C. §103

Claims 6-9, 21-23, 32-34 and 45-48 stand rejected under 35 U.S.C. §103 as being unpatentable over U.S. Pat. No. 6,621,225 to Bruwer ("the Bruwer '225 patent"). In view of the claims as presently amended, applicant respectfully traverses this rejection.

A review of the Bruwer '225 patent reveals that the Bruwer '225 patent also fails to provide any teaching or suggestion of the use of a toggling routine to activate and deactivate a flashlight without changing a previously selected operating mode. Since the Bruwer '225 patent fails to provide any teaching or suggestion of at least this claim limitation, Bruwer fails to teach or suggest each and every claim limitation. Since the Bruwer '225 patent fails to teach or suggest each and every claim limitation, the rejections are improper and should be withdrawn.

#### Closing Remarks

For the foregoing reasons, applicant submits that the subject application is in condition for allowance and earnestly solicits an early Notice of Allowance. Should the Primary Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, the

Primary Examiner is respectfully requested to call the undersigned at the below-listed number.

The Commissioner is hereby authorized to charge any additional fee which may be required for this application under 37 C.F.R. §§ 1.16-1.18, including but not limited to the issue fee, or credit any overpayment, to Deposit Account No. 23-0920. Should no proper amount be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 23-0920. A duplicate copy of this sheet(s) is enclosed.

Respectfully submitted,

WELSH & KATZ, LTD.

By

A handwritten signature in black ink, appearing to read "Jon P. Christensen", is written over a horizontal line. The signature is stylized with a large, looping initial "J".

Jon P. Christensen

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